IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WA.No. 49 of 2006()

AGAINST JUDGMENT DATED 29.8.2005 IN WP (C) NO.23180/2005

APPELLANTS: RESPONDENTS.
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1. THE TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY,
TRAVANCORE DEVASWOM BOARD OFFICE,
THIRUVANANTHAPURAM.

2. THE ASSISTANT ACCOUNTS OFFICER,
ASSISTANT AUDIT OFFICE, TRAVANCORE DEVASWOM
BOARD, ALUVA.

BY ADV. SRI.ANCHAL C.VIJAYAN

RESPONDENTS: PETITIONER & RESPONDENT NO.3.
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1. SINDHU, AGED 33 YEARS,
D/O.NEELAKANDAN NAMBOOTHIRI, NJAYALLOOR MANA,
EDAPPALLY NORTH P.O. KOCHI 24, ERNAKULAM DIST.

2. THE STATE OF KERALA, REPRESENTED
BY ITS CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.P.S.NARAYANA RAJA
R2 BY GOVERNMENT PLEADER MR.T.B.HOOD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K. BALI, C.J. & S.SIRI JAGAN, J.

W.A.No.49 of 2006 &
C.M.Appln.No.82 of 2006

Dated, this the 8th day of December, 2006

JUDGMENT

V.K.Bali,C.J.(Oral)

Delay condoned.

2. This writ appeal has been filed challenging the order dated 29th August, 2005 passed by the learned Single Judge in W.P.(C) No.23180 of 2005. Petitioner in the original lis and the first respondent in the present writ appeal sought appointment on compassionate grounds. It is the case of the petitioner that her brother Sreekumaran Namboodiri who was an employee of the Devaswom Board died in harness. Her application was rejected by the competent authority vide order Ext.P2 dated 26.4.2005. It was stated in the order that the petitioner is married and that being so she would not be entitled for appointment on compassionate grounds because of the demise of her brother under the Scheme. It is this order that was challenged by the petitioner. Clause 6(5) of the Dying-in-Harness Scheme reads as follows:

> "An unemployed married son or any unemployed married daughter whose spouse is also unemployed can also be considered for appointment under these rules, provided the other dependents of the deceased Devaswom employee are being looked after by him/her."

3. It is apparent from a reading of the clause aforesaid that an unemployed married son or unemployed married daughter whose spouse is also unemployed would be entitled for consideration under the Scheme. Even though by virtue of clause 6 relied upon by the learned Single Judge she may be under the category of eligible relations entitled to compassionate appointment, but the case of the sister cannot be better than that of son and daughter. It is conceded position that the husband of the petitioner is an employee. That being so, petitioner is not entitled for appointment on compassionate grounds. That apart, the category of persons mentioned in the Scheme at the most would be entitled for consideration for appointment on compassionate grounds. The mere fact that they are entitled would not automatically mean that they may necessarily be employed. It is too well settled that compassionate appointment is to be given to tide over the immediate crisis. Surely, the

petitioner whose spouse being an employed person would not be in immediate crisis. We find considerable merit in the appeal preferred by the appellants and it is allowed. Consequently, the order passed by the learned Single Judge is set aside and the writ petition filed by the petitioner is dismissed. There will be no order as to costs.

V.K. BALI,
CHIEF JUSTICE.

S.SIRI JAGAN,
JUDGE.

vns